

MINUTES

**North Dakota Public Employees Retirement System
Thursday, August 29, 2002
Fort Union Room,
State Capital
Bismarck, North Dakota**

Members Present: Chairman Jon Strinden
Mr. David Gunkel
Ms. Rosey Sand
Mr. Howard Sage
Mr. Weldee Baetsch
Ms. Tabor
Absent Dr. Terry Dwelle

Others Present: Mr. Sparb Collins, Executive Director NDPERS
Mr. Scott Miller, Attorney General's Office
Ms. Denise Curfman, NDPERS
Ms. Kathy Allen, NDPERS
Ms. Deb Knudsen, NDPERS
Mr. Bryan Reinhardt, NDPERS
Ms. Rhonda Peterson, BCBS
Mr. Tom Tupa, SEA
Mr. David Peske, ND Medical Association
Ms. Chris Runge, NDPEA AFT-4660
Captain Bryan Klipfel, NDHP
Col. Jim Hughes, NDHP
Mr. Brad Swenson, Dorsey & Whitney

Chairman Strinden called the meeting to order at 8:30 AM.

Minutes

Chairman Strinden called for any questions or comments regarding the June 20, 2002 NDPERS Board minutes.

Mr. Gunkel moved approval of the June 20, 2002 NDPERS Board minutes. Mr. Sage seconds.

Chairman Strinden called for any questions or comments regarding the July 18, 2002 NDPERS Board minutes.

Mr. Gunkel moved approval of the July 18, 2002 NDPERS Board minutes. Ms. Sand seconds.

Highway Patrol (Board Action Requested)

Ms. Allen indicated that North Dakota Century Code 39-03-.1-11(5) provides

"...The final average salary used for calculating a deferred vested retirement benefit must be increased annually from the later of the date of termination of employment or July 1, 1991, until the date the contributor begins to receive retirement benefits from the fund, at a rate as determined by the board not to exceed a rate that would be approximately equal to annual salary increases provided state employees pursuant to action by the legislative assembly."

Ms. Allen indicated that staff has met with leadership of the Highway Patrol. Their recommendation is \$35 per month minimum be used as the factor for purposes of indexing this year. This equates to 1.73% for the system. As in the past, this suggestion is based on the amount allocated by the legislation as applying to all employees and does not include the merit and equity dollars allocated by the legislation. Captain Bryan Klipfel, and Col. Jim Hughes, of the North Dakota Highway Patrol appeared before the Board to answer questions.

Ms. Tabor moved approval of 1.73% indexing for the Highway Patrol System. Mr. Sage seconds.

Ayes: Baetsch, Gunkel, Sand, Sage, Tabor, and Chairman Strinden.

Nays: None

Absent: Dwelle

PASSED

Blue Cross Blue Shield Renewal Proposal (Board Action Requested)

Mr. Patrick Pechacek of Deloitte & Touche appeared before the Board to review their report on their independent projection of the rates for 2003-2005 biennium.

Mr. Chad Niles and Ms. Janine Weideman of Blue Cross Blue Shield appeared before the Board to provide a brief presentation on the renewal proposal and the underlying trends that create the proposed increases.

Ms. Sand motioned to enter into Executive Session under NDCC section 44-04-19.1(7), at 10:15 AM to discuss the BCBS renewal proposal.

Ms. Tabor seconds.

Ayes: Baetsch, Gunkel, Sand, Sage, Tabor, and Chairman Strinden.

Nays: None

Absent: Dwelle

PASSED

Present in Executive Session:

Chairman Jon Strinden

Mr. David Gunkel
Ms. Rosey Sand
Mr. Howard Sage
Mr. Weldee Baetsch
Ms. Tabor
Dr. Terry Dwelle

Absent

Others Present:

Mr. Sparb Collins, Executive Director NDPERS
Mr. Scott Miller, Attorney General's Office
Ms. Denise Curfman, NDPERS
Ms. Kathy Allen, NDPERS
Ms. Deb Knudsen, NDPERS
Mr. Bryan Reinhardt, NDPERS
Mr. Patrick Pechacek, Deloitte & Touche

Mr. Gunkel motioned to close Executive Session at 11:25 AM.

Ms. Sand seconds.

Ayes: Baetsch, Gunkel, Sand, Sage, Tabor, and Chairman Strinden.

Nays: None

Absent: Dwelle

PASSED

Mr. Gunkel moved:

- 1) To review the active and retiree plan designs and submit recommendations for alternative plan designs.**
- 2) To accept the BCBS bid and to direct the PERS Chair and Executive Director to meet with Senior BCBS management to negotiate contract terms.**
- 3) To proceed with the long term planning process, direct the PERS Executive Director to write and submit legislative bills to authorize**
 - a) the elimination of the formal bid process for the group insurance program**
 - b) the board to develop an independent network health care provider contracts**
 - c) in house administration of the health care plan by PERS**
 - d) an agency wellness plan with premium incentives.**
- 4) To have the Executive Director of PERS to review of the large case management function at BCBS during the next two years.**

Mr. Sage seconds the motion.

Ayes: Baetsch, Gunkel, Sand, Sage, Tabor, and Chairman Strinden.

Nays: None

Absent: Dwelle

PASSED

USERRA Opinion (Informational)

Mr. Collins indicated that in the board materials was the response PERS received from the Attorney General concerning the administration of the USERRA law as it relates to PERS retirement plans. Mr. Scott Miller has incorporated into PERS legislative amendments provisions to bring PERS statute in compliance with this opinion. Mr. Scott Miller provided the Board with a brief overview of the memo.

Judges Disability (Board Action Requested)

Mr. Collins indicated that the following changes have been made to PERS administrative rules in conjunction with the changes on the method of deterring whether or not a judge was disabled in the last legislative session:

Subsection 71-02-01-01-16 is amended as follows:

- 16 “Permanent and total disability” for members of the main retirement system and the national guard retirement plan means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months. For members of the judge’s retirement plan permanent and total disability is determined pursuant to subdivision e of subsection 3 of section 54-52-17 of the North Dakota Century Code.

Subdivision b of subdivision 1 of section 71-02-05-06

- b. For the main system and the national guard system the application must explain the cause of the disability, the limitations caused by the disability, the treatment being followed, and the effect of the disability on the individual’s ability to be engaged in any gainful occupation for which the person is, or could become, reasonably fitted education, training, or experience. For the judges retirement plan the application must explain the cause of the disability, the limitations caused by the disability, the treatment being followed, and the effect of the disability on the individual’s ability to mentally or physically fulfill the duties and responsibilities of being a judge. A judge that is determined to be disabled pursuant to subdivision a of subsection 3 of section 27-23-03 of the North Dakota Century Code shall file an application documenting this determination and the effective date of the disability.

Subdivision c of subsection 2 of section 71-02-05-06

- c. The medical consultant is responsible to determine eligibility for disability benefits for applicants not approved for social security disability benefits or for judges not approved pursuant to subsection 3 of section 27-23-03 of the North Dakota Century Code and shall advise the executive director of the decision in writing. Applicants who become eligible for disability benefits under the Social Security Act and who meet the requirements of subdivision e of subsection 3 of North Dakota Century section 54-52-17 are eligible for benefits under subdivision e of subsection 4 of North Dakota Century Code section 54-52-17 without submitting further medical information to the medical advisor, but are subject to recertification requirements specified in this chapter.

Mr. Collins indicated that in discussing how to implement the above with PERS medical consultant this last fall he indicated that he would need a job description for a Judge in order to make the determination. Staff then met with the court and they indicated that no such description existed for North Dakota Judges. Staff also checked with the national organization but found no generic national descriptions. Other state PERS were also contacted to see how they made the judges disability determinations. Staff found that many have the determination made by a committee or in some cases by the governor but none had a job description.

Given this insight staff has developed a proposed methodology that included having two judges (one Supreme Court judge and district judge) work with the medical director to review an application when submitted. The judges would assist the medical director in gaining an insight

into the requirements of the job as it related to the disability application. A final determination on the application would need the concurrence of the medical director and at least one judge.

Staff has met with the representatives of the court and the medical director to review this process and they agree that it may be the most practical approach.

The administrative rules will need to be modified accordingly with the next rewrite. In the meantime staff would use this as the administrative process should an application come in before the new rules would be effective.

Mr. Sage moves approval of having two judges (one Supreme Court judge and district judge) work with the medical director to review an application when submitted. The judges would assist the medical director in gaining an insight into the requirements of the job as it related to the disability application. A final determination on the application would need the concurrence of the medical director and at least one judge. And to have staff use this as the administrative process should an application come in before the new rules would be effective.

Ms. Sand seconds.

Ayes: Baetsch, Gunkel, Sand, Sage, and Chairman Strinden.

Nays: None

Absent: Dwelle and Tabor

PASSED

457 Companion Plan 2nd Quarter Report (Informational)

Mr. Reinhardt provided an over view of the report for the board.

401(a) Defined Contribution 2nd Quarter 2002 Report (Informational)

Mr. Reinhardt provided an over view of the report for the board.

Job Service OASIS/Social Security (Board Action Requested)

Mr. John Graham, Representative from Job Service of North Dakota appeared before the Board to review their proposal for transferring legal and operational responsibility for OASIS and SSA Section 218 agreements from Job Service of North Dakota to PERS.

Mr. Collins indicated that PERS is in the retirement administration business and such a change makes sense with the OASIS proposal, however, the transfer of the SSA Section 218 agreements is outside the scope of PERS responsibilities.

Ms. Sand moved approval of transferring the OASIS and not transferring SSA Section 218 agreements.

Mr. Baetsch seconds.

Ayes: Baetsch, Gunkel, Sand, Sage, and Chairman Strinden.

Nays: None

Absent: Dwelle and Tabor

PASSED

Proposed Legislation (Board Action Requested)

Mr. Collins indicated that the next Legislative Employee Benefits Committee is scheduled in September and at that meeting the committee will be taking comments on legislation and reviewing the first draft of the technical comments. Included in the board materials were the

technical comments from Segal and Deloitte on each of the proposed bills. Also included in the board materials were the proposed amendments for each bill.

Ms. Sand motioned for the Board not to support Bill #18.

Mr. Sage seconds the motion.

Ayes: Sand and Sage,

Nays: Baetsch, Gunkel and Chairman Strinden.

Absent: Dwelle and Tabor

FAILED

EPO Annual Enrollment (Informational)

Ms. Allen indicated that there was an overall increase of 4.5% in the EPO Contracts as of July 1, 2002. Altra Clinic in Grand Forks had the largest increase at 12.3%. This increase is due to the addition of Lake Region Clinic in Devils Lake to its network.

2001 NDPERS Health Care Analysis (Informational)

Mr. Reinhardt provided an over view of the report for the board.

Surplus/Affordability Update (Informational)

Mr. Reinhardt provided an over view of the report for the board.

Chairman Strinden called for any other business, hearing none the meeting adjourned at 12:45 PM.

Respectfully Submitted

Denise A. Curfman

Denise A. Curfman
Secretary, NDPERS Board

